

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

DIANE COWAN *et al.*,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

BOLIVAR COUNTY BOARD OF
EDUCATION *et al.*,

Defendants.

Civil Action No. 2:65-cv-00031-DMB

**PLAINTIFF-INTERVENOR UNITED STATES' MOTION *IN LIMINE* TO PRECLUDE
CERTAIN EXPERT OPINION TESTIMONY OF JEROME NORWOOD, DR. E.E.
"BUTCH" CASTON, DR. CASSIE PENNINGTON, AND BEVERLY HARDY**

Pursuant to the Court's March 3, 2015 Scheduling Order, as well as Rule 16 of the Federal Rules of Civil Procedure, Rules 104(a) and 702 of the Federal Rules of Evidence, and Rule 7 of the Local Uniform Civil Rules, Plaintiff-Intervenor the United States, by and through undersigned counsel, hereby files this Motion *in Limine* to Preclude Certain Expert Opinion Testimony of Jerome Norwood (who is deceased), Dr. E.E. "Butch" Caston, Dr. Cassie Pennington, and Beverly Hardy at the upcoming May 2015 hearing in this case. As grounds for its Motion *in Limine*, the United States asserts the following facts, which are more fully set forth in the accompanying Memorandum of Law:

1. On March 20, 2015, the Cleveland School District (the “District”), by and through its counsel, served the United States with reports prepared by those experts whom the District anticipates it may call at the May 2015 hearing on the parties’ proposed desegregation plans.

2. The above-referenced materials included, among others, the expert reports of Jerome Norwood, Dr. Cassie Pennington, Dr. E.E. “Butch” Caston, and Beverly Hardy.

3. The report of Jerome Norwood, who is deceased, proffers testimony on the demographic composition of the District in 1969.

4. Drs. Pennington and Caston proffer testimony on the likely impact of consolidation on desegregation of the District.

5. Beverly Hardy proffers testimony – *inter alia* – on the importance of choice to parents (particularly white parents) of students enrolled in the District and the likely behavior of those parents under the proposed desegregation plans.

6. For the reasons set forth in the accompanying Memorandum of Law, the testimony described above either fails to satisfy Federal Rule of Evidence 702 and *Daubert* standards or is otherwise inadmissible.

Wherefore, the United States respectfully requests that the Court grant this Motion *in Limine* and enter an order precluding Jerome Norwood, Dr. E.E. “Butch” Caston, Dr. Cassie Pennington, and Beverly Hardy from offering the challenged expert opinion testimony – either in person or by way of an expert report – during the May 2015 hearing.

Dated: May 4, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2015, I electronically filed a copy of the foregoing Motion *in Limine* with the Clerk of the Court using the Court's CM/ECF system. Notice of this filing was sent by operation of the CM/ECF system to all counsel of record.

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